

Serial No. 09/740,706

- 7 -

Art Unit: 2633

REMARKS

Claims 1, 3-8 and 10-28 are pending in this application. All of the claims were rejected under 35 USC §102(e) as being anticipated by Goldstein. Claims 1, 8, 16, 17, 22, and 28 are currently amended. Reconsideration is respectfully requested.

The presently claimed invention distinguishes Goldstein because MEMS are used for dropping optical data streams while a non-MEMS based combiner is used for adding optical data streams. One advantage of the claimed configuration is that use of MEMS is mitigated. Generally, non-MEMS based combiners such as passive couplers and multiplexors are less costly and more reliable than MEMS. Further, the presently claimed invention enables use of single-sided mirror MEMS rather than double-sided mirrors. This also tends to reduce cost and enhance reliability. In contrast, Goldstein teaches use of MEMS to perform the drop function. Quite simply, Goldstein illustrates optical matrix switches (200, 720) which use micromirrors (280) to perform add functions. Hence, claim 1 distinguishes Goldstein by reciting "a non-MEMS based combiner operably coupled to combine passed optical data streams from the photonic switching fabric together with added optical data streams." Claims 8, 16, 17, 22, and 28 recite similar distinguishing language. Claims 3-7 and 10-15, 18-21 and 23-27 are dependent claims which further distinguish the invention, and which are allowable for the same reasons as their respective base claims. Withdrawal of the rejections of claims 1, 3-8 and 10-28 is therefore requested.

With regard to claims 4 and 11 in particular, the contention of the Office that Goldstein teaches a passive coupler for adding signals in Figs. 6 and 7 exhibits a lack of due care and is unfair to Applicant. Those figures clearly show use of MEMS (720B) to add optical signals. At col. 7, lines 40-41, Goldstein even states "as can be seen, a micromirror 724 of the second MEMS 720B ... ." Applicant is unable to find a passive coupler used anywhere in those figures for any

Serial No. 09/740,706

- 8 -

Art Unit: 2633

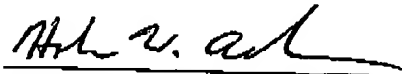
purpose. It doesn't seem possible that the Office could have a good faith belief that the cited figures illustrate a passive coupler.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Holmes W. Anderson, Applicants' Attorney at 978-264-4001 so that such issues may be resolved as expeditiously as possible.

For these reasons, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

11 January 2006  
Date

  
Holmes W. Anderson, Reg. No. 37,272  
Attorney/Agent for Applicant(s)  
McGuinness & Manaras LLP  
125 Nagog Park  
Acton, MA 01720  
(978) 264-6664

Docket No. 2204/A78 120-207  
Dd: 1/17/06